

# **MEMORANDUM OF UNDERSTANDING**

between

**CITY OF SANTA CLARA**

and

**UNCLASSIFIED FIRE MANAGEMENT  
EMPLOYEES  
UNIT 9B**



**DECEMBER 18, 2005 – DECEMBER 15, 2007**

**MEMORANDUM OF UNDERSTANDING**  
**between**  
**CITY OF SANTA CLARA**  
**and**  
**UNCLASSIFIED FIRE MANAGEMENT EMPLOYEES, UNIT #9B**

**DECEMBER 18, 2005 – DECEMBER 15, 2007**

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**DECEMBER 18, 2005 – DECEMBER 15, 2007**

In accordance with the provisions of Section 18 of the City of Santa Clara Resolution #2979, entitled "Employer-Employee Relations", this Memorandum of Understanding (MOU) constitutes the results of discussions between the City Management Staff (City) and certain Unclassified Fire Management Employees of the City of Santa Clara (Unit 9B) on all matters within the scope of representation. The term of this agreement shall be from December 18, 2005 through December 15, 2007.

It is hereby proposed and recommended that the City Council adopt the following, effective as indicated:

1. **TOTAL COMPENSATION**

- A. For the purposes of this agreement, total compensation is defined to include the following items:
  - 1) Salary\*\*
  - 2) Fringe Benefits:
    - a. Retirement\*\*
    - b. Holiday Pay\*
    - c. Vacation Pay\*
    - d. Uniform Maintenance\*\*
  - 3) Insurance:
    - a. Life\*\*
    - b. Medical\*\*
    - c. Dental\*\*
    - d. Disability\*\*
    - e. Non-Recoverable Health Services/Professional Development\*\*
    - f. Retiree Medical
- B. For this Memorandum of Understanding it will be the prerogative of Unit 9B to determine the allocation of Total Compensation among those elements listed under Section 1(A)(2)(d) and Section 1(A)(3)(a) through (e), subject to the requirement that the amount of the Kaiser single health insurance premium, including the PEMHCA minimum, be included in the mandatory section of the total compensation array, which are not otherwise restricted in this agreement.
- C. Base total compensation as defined above, for a Unit 9B Unclassified Fire Management Employee, will be determined in the following manner:
  - 1) The average monthly salary of the Unit 9B Unclassified Fire Management Employees will be calculated from the salary schedule, which includes December 20 of the current year.

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- 2) From this average salary, an array will be developed to establish the base total compensation for the Unclassified Fire Management Employee whose total compensation is the average of the unit.

2. ADJUSTMENT OF SALARIES AND FRINGE BENEFITS

- A. YEAR 1 (2006): Effective the pay period commencing December 18, 2005, for all classifications represented by the Unclassified Fire Management Employees, the City shall adopt a monthly Total Compensation schedule that will increase Total Compensation by the same percentage as the Total Compensation increase given to Unit 1 for this same contract year. The new Total Compensation schedule shall reflect the City rates for CalPERS, PEMHCA, and Kaiser single employee health insurance applicable during this contract year.
- B. YEAR 2 (2007): Effective the beginning of the pay period which includes December 17, 2006, for all classifications represented by the Unclassified Fire Management Employees, the City shall adopt a monthly Total Compensation schedule that will increase Total Compensation by the same percentage as the Total Compensation increase given to Unit 1 for this same contract year. The new Total Compensation schedule shall reflect the City rates for CalPERS, PEMHCA, and Kaiser single employee health insurance applicable during this contract year.
- C. It is recognized by both parties to this agreement that it is their mutual responsibility to independently verify, to the extent possible, the accuracy of the information upon which total compensation adjustments are made. Should it be discovered by either party that adjustment(s) to salary and fringe benefits are based on erroneous information or has been erroneously computed, the necessary corrective action will be taken as soon as practical after the discovery and notice of the error has been given. Said repayment will begin, via payroll deduction, with the next paycheck following final determination of the amount to be paid. It is the mutual responsibility of both parties to report any suspected error immediately upon discovery to the other party. However, the period for which there will be a right to recover any monies which are either overpaid by the City or underpaid to the employee shall be limited to an adjustment period of up to 90 calendar days from the date the error was first reported to the other party. The corrective action will be taken even in circumstances where the error may bridge successive MOU's, but the recovery will still be limited to amounts owed or owing during the prior 90 calendar days. The 90 calendar day period will begin upon the date of written notification by personal service upon the other party.

Right of recovery by the City of overpayment shall be limited to recovery over the same time period as the overpayment was made. Said repayment will begin with the next paycheck following final determination of the amount to be repaid. Underpayment to the employee shall be made by the City in a lump sum of the amount owed on the next regular paycheck following final determination of the amount to be paid.

3. VACATION ACCRUAL AND USAGE

Represented employees will accrue vacation, calculated to four decimal points for accuracy, as follows:

<u>YEARS OF SERVICE</u>	<u>ANNUAL ACCRUAL 8 HOUR EMPLOYEE</u>	<u>MAXIMUM ACCUMULATION</u>
1 through 9	15 days/120 hours	400 hours
10 through 19	20 days/160 hours	400 hours
20+ years	22 days/176 hours	400 hours

  

<u>YEARS OF SERVICE</u>	<u>ANNUAL ACCRUAL 24 HOUR EMPLOYEE</u>	<u>MAXIMUM ACCUMULATION</u>
1 through 9	8 shifts/192 hours	672 hours
10 through 19	10 shifts/240 hours	672 hours
20+ years	12 shifts/288 hours	672 hours

Represented employees will be entitled to use vacation as it is earned under the following conditions:

- A. Vacation may not be taken during the first 12 months of regular employment.
- B. Vacation will be earned on a bi-weekly basis (1/26th of the annual accrual) provided that the employee is in a paid status for at least 2/3rds of the hours of that pay period.
- C. Employee is required to take at least 1/2 of the vacation earned during the previous calendar year in the current calendar year.
- D. Subject to having a sufficient balance of accrued vacation available, an employee may, on a once per year basis, request to be paid at his/her current hourly pay rate for a maximum of 40 hours (56 hours for 24 hour employees) of accrued vacation if he/she has taken at least one-half (1/2) of the vacation earned in the previous calendar year during the current calendar year.
- E. Subject to having a sufficient balance of accrued vacation available, an employee may, on a once-per-year basis, convert a maximum of forty (40) hours (56 hours for 24 hour employees) of accrued vacation to cash at his/her current hourly rate of pay.
- F. Employee is required to have a vacation balance at or below their maximum accrual limit as of the end of the pay period in which December 31st occurs each year.
- G. In lieu of receiving a vacation-leave cash payout at retirement, the Unclassified Fire Management Employees may vote to roll accrued vacation leave hours into the employee's Voluntary Employee Beneficiary Association (VEBA) account, subject to Unclassified Fire Management Employees

compliance with Federal rules associated with employee contributions of vacation leave to their VEBA accounts.

4. INSURANCE PREMIUM REFUND/DEDUCTION SCHEDULE

Continuing to be effective in this MOU, the Medical insurance refund/deduction schedule will be based upon 12 payments per year. Payments will be refunded/deducted during the first paycheck in each month. Refunds are paid when the total allocation from total compensation for medical insurance is greater than the monthly premium cost for medical insurance for the employee. Deductions are taken when the total allocation from total compensation for medical insurance is less than the monthly premium cost for medical insurance for the employee.

5. HOLIDAYS

A. 8-hour Shift Employees

The City will observe the following thirteen (13) dates (or days) as City holidays and City offices will be closed in observance of those holidays. Represented employees assigned to an 8-hour shift will be entitled to eight (8) hours of paid time off in observation for each of the holidays listed:

New Year's Day (January 1), Martin Luther King, Jr. Day (3<sup>rd</sup> Monday in January), President's Day (3<sup>rd</sup> Monday in February), Spring Holiday (observed on Good Friday), Memorial Day (last Monday in May), Independence Day (July 4), Labor Day (1<sup>st</sup> Monday in September), Admission Day (September 9), Columbus Day (2<sup>nd</sup> Monday in October), Veteran's Day (November 11), Thanksgiving Day (4<sup>th</sup> Thursday in November), Friday after Thanksgiving, and Christmas Day (December 25).

Holidays which fall on a specific date and which fall on Saturday are observed the preceding Friday. Holidays which fall on a specific date and which fall on Sunday are observed the following Monday.

Represented employees will also receive thirteen work days (104 hours) of holiday pay, prorated over 26 bi-weekly pay periods annually. The number of annual holidays included in the total compensation allocation will be 13 days (computed on the eight hour per day rate). Any additional permanent holidays designated by the City Council will be afforded represented employees of Unit 9B. Additional permanent holidays under this section shall be defined as a holiday on which City offices are closed.

B. 24-hour Shift Employees

Represented employees will receive thirteen work days (104 hours) of holiday pay, prorated over 26 bi-weekly pay periods annually. The number of annual holidays included in the total compensation allocation will be 13 days (computed on the eight hour per day rate). Any additional permanent holidays designated by the City Council will be afforded represented employees of

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Unit 9B. Additional permanent holidays under this section shall be defined as a holiday on which City offices are closed.

### 6. MANAGEMENT LEAVE PROGRAM

The Management Leave program is as follows:

- A. Effective January 1 each year represented employees will be credited with Management Leave as follows:
  - 8-hour shift employees: 64 hours per calendar year
  - 24-hour shift employees: 96 hours per calendar year
- B. New hires or employees promoted into Unit 9B between January 1 and June 30 will be credited with 64 hours (96 hours for 24 hour shift employees) of Management Leave. New hires or employees promoted into Unit 9B between July 1 and December 31 will be credited with 32 hours (48 hours for 24 hour shift employees) of Management Leave.
- C. Use of Management Leave is subject to approval by the Fire Chief or his/her designee. Such use shall be approved unless staffing or other conflicts prohibit such approval.
- D. Management Leave is not charged through the Total Compensation Array.
- E. Management Leave may not be converted to cash or other paid time off.
- F. Unused Management Leave does not carry over from one calendar year to the next.

### 7. UNCLASSIFIED COMPENSATORY TIME OFF (CTO)

Represented employees will continue to be eligible for up to 32 hours (48 hours for 24-hour employees) of Unclassified Compensatory Time Off (CTO) per calendar year. Unclassified CTO taken in excess of eight (8) consecutive hours, or twelve (12) hours per pay period, requires approval of the City Manager. Unclassified CTO may only be taken in conjunction with other forms of leave with approval of the City Manager.

### 8. PROFESSIONAL DEVELOPMENT

The City recognizes that the professional development of management personnel in the form of conferences and educational classes is in the best interest of the community. To this end, when approved by the Fire Chief and City Manager, represented employees who take part in professional development opportunities shall be entitled to normal, on-duty pay, without having to use paid leave time, for those hours during which attendance at the professional development opportunity includes the normally scheduled duty hours of the individual. The individual shall not be compensated for normal duty hours which are spent in activities not directly associated with the approved professional



development opportunity unless this time is covered by other paid leave time.

9. SICK LEAVE/FAMILY SICK LEAVE/PERSONAL LEAVE

A. SICK LEAVE

- 1) Employees shall accrue ninety-six (96) hours (288 hours for 24-hour employees) of sick leave per year of regular City employment. Sick leave shall accrue in equal amounts each pay period. Employees shall not accrue sick leave while they are on unpaid status.
- 2) Use of sick leave will be under the same terms and conditions as are now in place. Vacation and CTO may be used to supplement sick leave with Department Head approval, as permitted and set forth in CMD 30 at the time this MOU was adopted.

B. FAMILY SICK LEAVE

- 1) Not more than forty eight (48) hours of sick leave (144 hours for 24-hour employees) within one calendar year shall be granted to any employee for the care or attendance upon members of his/her immediate family, unless the use of additional leave is approved by the City Manager or designee. "Immediate family" is defined as spouse, parent, child, sibling, grandparent, grandchild, aunt, uncle, niece, nephew, first cousin, parent by marriage, step-parent, step-child, grandparent by marriage, son-in-law, daughter-in-law, sibling by marriage, foster parent, domestic partner, anyone residing with employee, or anyone dependent on the employee for care.

C. PERSONAL LEAVE

- 1) Each calendar year, an employee is entitled to use twenty-four (24) hours (48 hours for 24-hour employees) of accrued sick leave as Personal Leave, provided he/she has sufficient sick leave balance available.
- 2) Personal leave is intended to provide the employee with paid time off to attend to legitimate personal business that may arise from time to time during the year. Personal Leave may be used to supplement sick leave as required.
- 3) The employee has an obligation to provide as much notice as possible so as to allow for proper scheduling by the department.
- 4) Providing that the minimal requirements of proper notification have been met, the use of Personal Leave should not be denied.

The adoption of this program does not modify the existing ability of the employee to exchange up to 96 hours of accrued sick leave for up to 48 hours of vacation (216 hours of sick leave for up to 72 hours of vacation for 24-hour employees), based upon two (2) hours of sick leave for one (1) hour of vacation as provided and defined in the Personnel and Salary Resolution.

In lieu of receiving a sick-leave cash payout at retirement, an employee may elect to roll accrued sick leave hours, based on service level and payout, into the employee's Voluntary Employee Beneficiary Association (VEBA) account, subject to Association compliance with Federal rules associated with employee contributions of sick leave to their VEBA accounts.

10. BEREAVEMENT LEAVE

- A. The City will provide employees with a paid bereavement leave benefit to attend to the customary obligations arising from the death of a member of an employee's immediate family, as defined in this Section 20(A). Employees are eligible to receive up to forty (40) hours (or three (3) shifts for 24-hour employees) of bereavement leave in the event of the death of a parent (including step, adoptive and in-law), child (including step, adoptive and in-law), sibling (including step, adoptive and in-law), spouse or domestic partner; up to three (3) work days (or two (2) shifts for 24-hour employees) of bereavement leave in the event of the death of a grandparent (including step, adoptive and in-law), grandchild (including step, adoptive and in-law), aunt (including step, adoptive and in-law) or uncle (including step, adoptive and in-law); and up to one (1) work day (or one (1) shift for 24-hour employees) of bereavement leave in the event of the death of their own or a step, adoptive, or in-law great-grandparent, great-grandchild, niece, nephew, or first cousin.
- B. The bereavement leave benefit is based on each death occurrence and is not charged through the total compensation model.
- C. Up to five (5) work days (or five (5) shifts for 24-hour employees) of additional bereavement leave may be charged to an employee's sick leave balance with City Manager approval.
- D. At the request of the City, the employee will provide verification.

11. VOLUNTARY TIME OFF

Employees may request voluntary unpaid time off under the following conditions:

- A. Approval of a work schedule that does not adversely impact the operations of the department or other employees in the work unit with the approval of the Department Head and the City Manager.
- B. No impact on either sick leave or vacation accrual if sufficient hours are worked in a pay period to entitle the employee to his/her regular accrual rate for either benefit.
- C. No reduction of insurance premium payment or refund as long as sufficient hours are worked to allow for full payment of the premium for an employee working a full time work schedule. If the number of hours worked is less than the number required for full payment of premiums or refunds, the premium or refund payments will be reduced in proportion to the hours required to gain full credit.

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- D. Voluntary time off may be taken without the employee first using all of his/her accrued leave.
- E. Employee may cancel his/her participation in the program with a notice time agreed upon at the time of the granting of the request which will be sufficient to allow the department head to accommodate the request.
- F. Cancellation of the employee's participation in the program will be at the discretion of the Department Head with the approval of the City Manager.

12. NON-RECOVERABLE HEALTH SERVICES/PROFESSIONAL DEVELOPMENT

Represented employees shall have the right to allocate total compensation monies toward Non-Recoverable Health Services or Professional Development. This program is designed to provide reimbursement to the employee of the cost of services that are not covered as a part of the City's Medical Insurance Program or for non-reimbursed costs incurred as a result of the employee's expenditure in professional activities, organizations, or materials, which are related to his position with the City.

Monies deposited in this fund shall be distributed to represented employees on or about November 15th of each year subject to the following conditions:

- A. The right to collect the benefit or a pro-rated amount thereof shall vest on November 15 of each year only for represented employees employed as of that date; except that the right to collect the total benefit shall earlier vest in the case of an Unclassified Fire Management Employee whose service is terminated by death or retirement in which case, it shall vest on such date of death or retirement at which time the benefit also becomes payable.
- B. For employees entering the Unclassified Service on or after January 1 of each year and whose right to the benefit vests, payment shall be made according to the following table:

<u>Entered Service</u>		<u>Amount Paid</u>
<u>On or</u> <u>After</u>	<u>But</u> <u>Before</u>	
Jan. 1	Feb. 1	Full Amount
Feb. 1	Mar. 1	91.7%
Mar. 1	Apr. 1	83.3%
Apr. 1	May 1	75.0%
May 1	June 1	66.7%
June 1	July 1	58.3%
July 1	Aug. 1	50.0%
Aug. 1	Sept. 1	41.7%
Sept. 1	Oct. 1	33.3%
Oct. 1	Nov. 1	25.0%
Nov. 1	Nov. 16	16.7%
Nov. 16	Dec. 31	0.0%

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- C. No represented employee shall be entitled to more than the allocation for this benefit in any calendar year.
- D. Prior to receiving the benefit, the employee or his/her heirs shall file a certificate in a form prescribed by the Finance Department setting forth the taxable status of the benefit. In the event no such certificate is filed, the entire amount of the benefit paid shall be included as "other compensation" on the employee's W-2 form for the fiscal year concerned.

13. VEBA

- A. The City established a Voluntary Employee Beneficiary Association (VEBA) trust under Internal Revenue Code Section 501(c)(9) for the purpose of providing a defined contribution post retirement medical benefit for employees. The City will no longer make contributions to employee VEBA accounts effective December 21, 2003. Employee VEBA accounts will remain open for other potential contributions. Specific information regarding the Plan is referenced in the Plan Document.
- B. A VEBA is a tax-exempt trust account formed under Internal Revenue Code Section 501(c)(9) designed to accumulate assets to fund the future payment of qualified unreimbursed medical expenses (including specified insurance premiums). At retirement, participants may withdraw the accumulated plan benefits to pay for unreimbursed health insurance premiums, qualified long-term care insurance premiums, and other qualified unreimbursed medical expenses and will not be taxed under current state and federal law. Withdrawals cannot be made for non-medical purposes.

14. RETIREE MEDICAL REIMBURSEMENT BENEFIT

- A. The Retiree Medical Reimbursement Benefit shall provide each employee who retires from the City, regardless of retirement date, with at least ten (10) years of regular City service with a reimbursement for unreimbursed single retiree health insurance premium beginning with the first full month of retirement from City service and ending with the last full month before the retiree's sixty-fifth (65<sup>th</sup>) birthday. Starting with the month in which the retiree turns age sixty-five (65), the reimbursement will be for unreimbursed Medicare single retiree supplemental health insurance premium. For premiums paid in calendar year 2005, the City will reimburse an amount up to \$256 per month, including the PEMHCA minimum, for unreimbursed single retiree health insurance premium or up to \$154 per month, including the PEMHCA minimum, for unreimbursed Medicare single retiree supplemental health insurance premium. The amount of the City reimbursement will be adjusted once each year by the percentage change in the San Francisco-Oakland-San Jose urban wage earners and clerical workers (W) consumer price index from the prior year, but in no event will be increased more than 3.5%.
- B. Beginning in 2004, the City will pre-fund this benefit with an amount to be determined by an actuary.

C. Each retiree will be required to submit proof of health insurance coverage to the City each year.

15. EMPLOYEE ASSISTANCE PROGRAM

The City will continue to provide a confidential Employee Assistance Program (EAP) to be funded outside of Total Compensation each year.

16. FLEXIBLE SPENDING PLAN, INTERNAL REVENUE CODE SECTION 125

The City will make available a Flexible Spending Plan under the Internal Revenue Code Section 125 for employees. Employees may contribute pre-tax (federal, state, FICA, Medicare) dollars for dependent care and qualified unreimbursed medical expenses. This Plan will follow the regulations outlined by the Internal Revenue Code. Detailed information will be available in the Summary Plan Document.

The City will pay the administrative expenses for the plan. This Plan is voluntary and participating employees will pay the monthly participation cost. The monthly participation cost will be considered pre-tax, as defined above, under Internal Revenue Code Section 106. Participating employees will be provided with an Employee Plan Summary and regular statements regarding the status of their flexible spending accounts.

17. DOMESTIC PARTNERS

The City shall make all benefit programs available to employees, dependents and domestic partners, subject to the requirements of each benefit provider.

18. DECLARATION

The parties hereto have reached an understanding concerning the proposed salaries and fringe benefits described in the above paragraphs. All other matters dealing with wages, hours, fringe benefits including health and dental insurance contributions, and working conditions included in ordinances, resolutions, rules or regulations, or previous memorandums of understanding, shall remain unchanged for the term of this memorandum in the absence of agreement to the contrary.

19. NEXT MEMORANDUM OF UNDERSTANDING

Unit 9B will submit it's proposals for a Memorandum of Understanding for the term commencing at the expiration of this Memorandum of Understanding no later than November 1, 2007.

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FOR THE CITY OF SANTA CLARA

(Eddie Kreisberg)

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FOR THE UNCLASSIFIED FIRE  
MANAGEMENT EMPLOYEES:

(William G. Kelly)

(Angela Giuliani)

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APPROVED: (Jennifer Sparacino)  
JENNIFER SPARACINO, City Manager

APPROVED BY THE CITY COUNCIL ON: December 13, 2005

ATTEST: (Rod Diridon Jr.)  
ROD DIRIDON, City Clerk